

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.102 of 1997

ORAL ORDER:

This writ petition is filed seeking Certiorari to call for the records relating to proceedings Ref.No.014/Gen-05/3171/97 dated 4.1.1997 issued by the second respondent and quash the same as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India by holding that the petitioner is entitled to have her services regularized in the category of Badli Sweeper or in any Class-IV post with all consequential benefits.

It appears, petitioner's mother joined in the service of respondent Bank on 16.4.1969 as a Sweeper. After serving 25 years in the organization and on attaining the age of superannuation, she retired from service w.e.f. 30.6.1995. Thereafter, petitioner was appointed as Sweeper in the vacancy caused due to the retirement of her mother. The petitioner worked as Badli Sweeper w.e.f. 1.7.1995 and on 15.2.1996 and 16.5.1996, she made representations for regularization of her services. But there was no response, and on the other hand, The second respondent issued proceedings dated 4.1.1997 dispensing with the services of the petitioner. Hence the writ petition.

A detailed counter affidavit has been filed by the respondents stating that the petitioner has no vested right for being considered for the post of Badli Part-time Sweeper either temporary or on regular basis. The petitioner has passed X Class and she is 49 years old, whereas for a candidate to be eligible to be appointed as part-time

sweeper in the respondent Bank, the candidate should be within the age group of 18 and 35 years. Moreover, the petitioner has produced a false Transfer Certificate indicating that she was only 31 years of age and when some complaints were received from the staff of Tirupati branch stating that the petitioner had submitted false information about her age and educational qualifications and that she had submitted false/forged transfer certificate, the matter was investigated and it was found that the petitioner in fact was more than 45 years and had passed X Class in July, 1973 itself. Under those circumstances, the services of the petitioner were dispensed with. Further, there is no regular vacancy of part-time sweeper in Tirupati branch, as another permanent part-time sweeper in the same branch who has been working since 1988, has been entrusted with the duties on full-scale wages as per the existing rules. May be, the petitioner worked for more than 1000 days, since she has furnished false information, she is not eligible to be continued and there is no vacancy, therefore, her services were dispensed with through impugned proceedings.

The learned counsel for petitioner strenuously contended that whatever may be the reason, the respondents have not disputed that the petitioner has worked for more than 1000 days and also not disputed that the petitioner was appointed by the respondent and she worked till 4.1.1992. Under those circumstances, the respondent Bank has not followed the provisions of Section 25F of the Industrial Disputes Act, 1947 while dispensing with the services of the petitioner.

This Court, while admitting the writ petition, granted

interim suspension of the impugned proceedings, therefore, the petitioner is being continued as of now.

Be that as it may, since the impugned order was passed without putting the petitioner on notice or following the mandatory provisions of Section 25F of the I.D. Act, I am of the opinion that the respondents have not only violated the principles of natural justice, but also provisions of Industrial Disputes Act, therefore, the impugned order is liable to be set aside. Now it is more than 10 years the petitioner is continuing in service, the respondents are at liberty to consider the case of the petitioner for regularization of her services if there is any such vacancy is available, if she is otherwise eligible. If the petitioner found to have attained the age of superannuation, the respondents shall settle the account of the petitioner treating continuity of her service till the date of attaining superannuation.

The writ petition is accordingly allowed. No order as to costs.

C.V.RAMULU, J

Date: 17.1.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.102 of 1997

17.1.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA
PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.102 of 1997

Date: 17th January, 2006

Between:

Kum.Syed Imthiaz Begum

And

.. Petitioner

The Deputy General Manager
(Personnel Section), Workmen Wing,
Syndicate Bank, Zonal Office,
Hyderabad & another.

.. Respondents